

# EXHIBIT A

1 IN THE UNITED STATES DISTRICT COURT

2 IN AND FOR THE DISTRICT OF DELAWARE

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4 THOMAS A. EAMES, on behalf of : CIVIL ACTION  
5 themselves and all others :  
6 similarly situated; ROBERTA L. :  
7 EAMES, on behalf of themselves :  
8 and all others similarly :  
9 situated; TAMMY EAMES, on behalf :  
10 of themselves and all others :  
11 similarly situated; :  
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Plaintiffs,

v

NATIONWIDE MUTUAL INSURANCE  
COMPANY,

Defendant.

NO. 04-1324 (KAJ)

13 Wilmington, Delaware  
14 Friday, August 5, 2005 at 10:00 a.m.  
15 TELEPHONE CONFERENCE  
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BEFORE: HONORABLE KENT A. JORDAN, U.S.D.C.J.

APPEARANCES:

MURPHY, SPADARO & LANDON  
BY: JOHN S. SPADARO, ESQ.

Counsel for Plaintiffs

SWARTZ CAMPBELL, LLC  
BY: NICHOLAS E. SKILES, ESQ.

and

Brian P. Gaffigan  
Registered Merit Reporter

1 complaint. You may not like it but that doesn't make it  
2 "irrelevant." It also doesn't make it outside the bounds of  
3 proper discovery.

4           So what I'm telling you is if it comes down to  
5 advocacy before me on those discovery dispute, you come up  
6 way short, mister -- way, way, way short. The record that  
7 looks like has developed here that is presented to me is  
8 basically one where you said I'll give you the document.  
9 I'll give you the contract. Otherwise, you can drop dead  
10 until my 12(b) of is decided. That is sort of the gist of  
11 the feeling or the communications that seem to be going back  
12 and forth. And I'm just trying to disabuse you of this in  
13 the most direct, clear, emphatic way I possibly can. I will  
14 not tolerate that.

15           If you've got an issue with discovery, your  
16 obligation is to sit down and discuss it with the other  
17 side. And if Mr. Spadaro is off-putting, he is off-putting,  
18 but get past it. And if you need to collect a batch of  
19 letters and a history of anecdotes about how Mr. Spadaro is  
20 over the top so he can come to me and say he is abusing the  
21 process, do it and I'll hear you. But I can tell you now,  
22 both sides, if I have to spend an hour with you sorting out  
23 who is more obnoxious which is what at least half this call  
24 was about: "He is bad, he is mean, he is nasty, he hit  
25 first," I'm going to end up leveling sanctions at you

1 THE COURT: All right. You know what?  
2 Mr. Spadaro, these are smart men on the other side. And I  
3 think I have been more explicit and more direct and emphatic  
4 than I've had to be in a long time with counsel in any case  
5 so I trust that you and they will take the import of my  
6 words and manage your discovery appropriately. Go back and  
7 look at the transcript and figure it out. And if you guys  
8 can't figure it out, at that point I think we'll be stepping  
9 it up into the realm of sanctions because I am not going to  
10 spend another call like this. And I am confident that based  
11 on what I have already said, people can understand and move  
12 forward.

13 Now, let me hasten to add I'm not saying there  
14 is going to be some automatic sanction flying around if  
15 there is another call. If there is a genuine good faith  
16 dispute you can't get past because I have given you  
17 statements that are more general than are needed for you to  
18 really wrestle with a fine point, I'm happy to help you.  
19 What I'm not happy to do is to deal with generalized stuff  
20 about, no, I think that nothing should happen until my  
21 dispositive motion is decided. What I'm telling you is that  
22 does not fly. That the notion of get us the documents to  
23 deal with the issues that deal with whether they think that  
24 is going to be in or out of the case, at this point it's in  
25 the case based upon the allegations and I'm saying come to